

REMARKS

In the Office Action mailed November 10, 2008 the Office noted that claims 1-9, 11-21, 23-30, 32, 33, 35-40 were pending and rejected claims 1-9, 11-21, 23-30, 32, 33, 35-40. Claims 1-9, 11-21, 23-30, 32, 33, 35-40 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 1-9, 11-21, 23-30, 32, 33, 35-40 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 101

Claims 1-25 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular the Office asserts that the method claim 1 is software per se as it recites steps which do not produce a useful, concrete and tangible result; 17-25 are directed to functionally descriptive material per se.

Claims 1 and 17 have been amended to include a microprocessor to execute the method steps or the program means of the claims and the claims as now recited are statutory.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claim 1-9, 11-21, 23-30, 32, 33 and 35-40 stand rejected under 35 U.S.C. § 112, second paragraph as being

indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office asserts that the term "the sequence of instruction" lacks antecedent basis and indefinite as how it relates to the set of instructions. The Applicant has amended claims 1, 17 and 26 to remove the term.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1-9, 11-21, 23-30, 32, 33 and 35-40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Naccache, U.S. Patent No. 7,168,065. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Naccache discusses that a set of instructions that do not include any jumps within the sequence of instructions. A conditional jump being only allowable at the end of a sequence (see col. 14, lines 8-11), since the use of the jump instructions within the sequence of instructions is not compatible with the disclosed method for verifying computer program execution within a signature.

To emphasize this point the Applicants have amended the independent claims to recite "said set of instructions comprises at least one critical instruction in the form of a **jump instruction of any type (JMP, JNZ, CJNE, JZ)** inside of said set

**of instructions."** (Emphasis added) Support for the amendment may be found, for example, on page 8, lines 9-11 of the Specification. Claims 17 and 16 have likewise been amended. The Applicants submit that no new matter has been added by the amendment of claims 1, 17 and 26.

On page 8 of the Office Action it is asserted that Naccache, col. 14, lines 33-25 discloses such a feature. However, Naccache, col. 14, lines 8-13 state

The three sets of instructions EI1, EI2 and EI3 **do not include any jumps within their sequence** of instructions. (In the case of the first set of instructions, the conditional jump to the instruction EI1-j is at the end of the sequence.) Thus, for each of the three sets of instructions, all the instructions are designed to be executed sequentially as from the first. [Emphasis added]

The Office on the *Response to Arguments*, on page 4 of the Office Action states "[e]xaminer interprets Naccache does not have jumps **inside of** a sequence but does teach the jumps at the **end of** the Sequence." The amended claim requires the jump to be inside the set of instructions not at the end. Thus, the claims as now amended, are not anticipated by the Office's interpretation of Naccache.

For at least the reasons discussed above, claims 1, 17 and 26, and the claims dependent therefrom are not anticipated by Naccache.

Withdrawal of the rejection is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101, 112 and 102. It is also submitted that claims 1-9, 11-21, 23-30, 32, 33, 35-40 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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